

MDR Tracking Number: M5-04-2836-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution –General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 5-3-04.

The Medical Review Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that the work hardening program from 8-4-03 through 9-19-03 was not medically necessary. Therefore, the requestor is not entitled to a reimbursement of the paid IRO fee.

Based on review of the disputed issues within the request, the Medical Review Division has determined that medical necessity fees were not the only fees involved in the medical dispute to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 7-19-04, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

- The carrier denied CPT Codes 97545 WH AP and 97546 WH AP for dates of service 7-28-03, 7-31-03, 8-1-03, 8-5-03, 8-12-03, and 8-18-03 with "F" denial codes. In accordance with Rule 133.307 (g)(3)(A-F), the requestor submitted relevant information to support delivery of service. (For these dates of service the requester billed \$2,5600.00 for work hardening services. The insurance carrier reimbursed \$2,176.00.) Therefore, additional reimbursement is recommended in accordance with the Medicare program reimbursement methodology per Commission Rule 134.202 (b). Reimbursement is at the CARF rate is according to 134.201(5)(C)(ii) of \$64 per hour. **Recommend additional reimbursement in the amount of \$384.00.**
- Regarding CPT Code 97750-FC for date of service 11-18-03: Rule 134-202 (e)(4) states: (4) A maximum of three FCEs for each compensable injury shall be billed and reimbursed. FCEs ordered by the commission shall not count toward the three FCEs allowed for each compensable injury. FCEs shall be billed using the "Physical performance test or measurement..." CPT code with modifier "FC." FCEs shall be reimbursed in accordance with subsection (c)(1). Reimbursement shall be for up to a maximum of four hours for the initial test or for a commission ordered test; a maximum of two hours for an interim test; and, a maximum of three hours for the discharge test, unless it is the initial test. Information was submitted which reveals that this is an Interim FCE test. Since 134.202(a)(4) states, "specific provisions contained in the Texas Workers' Compensation Act shall take precedence over any conflicting provision

adopted by or utilized by CMS in administering the Medicare program”, the \$282.10 requested is denied. **Recommend reimbursement of \$200.00.**

Pursuant to 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees:

- in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) for dates of service through July 31, 2003;
- in accordance with Medicare program reimbursement methodologies for dates of service after August 1, 2003 per Commission Rule 134.202 (b);
- plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Decision and Order is hereby issued this 8<sup>th</sup> day of October 2004.

Donna Auby

Medical Dispute Resolution Officer  
Medical Review Division

#### AMENDED REPORT

10/06/2004

David Martinez  
TWCC Medical Dispute Resolution  
7551 Metro Center Suite 100  
Austin, TX 78744

Patient:  
TWCC #:  
MDR Tracking #:M5-04-2836-01  
IRO #: 5284

Specialty IRO has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker’s Compensation Commission has assigned this case to Specialty IRO for independent review in accordance with TWCC Rule 133.308, which allows for medical dispute resolution by an IRO.

Specialty IRO has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

This case was reviewed by a licensed Chiropractor with a specialty in Rehabilitation. The Specialty IRO health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to Specialty IRO for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

### CLINICAL HISTORY

\_\_\_ was injured on \_\_\_ while lifting an aircraft jack at work. He injured his left elbow and lumbar spine. He went to the hospital immediately following the accident. Then he presented to the office of Dr. S. An MRI was performed indicating a protrusion at L4 with no neural involvement. Active rehabilitation apparently began on 6/18/03 and continued through 7/24/03. An initial FCE was performed on 7/2/03 indicating the patient to be at a light PDL. Psychosocial examination performed by Dr. B on 7/2/03 states that neither a psychosocial group therapy nor mental health evaluation is indicated. A work hardening program was begun on 7/28/03 and ended on 9/19/03. A 5% impairment and MMI was assigned on 10/2/03 by Dr. A. A Dr. N indicated MMI and 5% IR on 10/15/03.

### DISPUTED SERVICES

The disputed services include a work hardening program from 8/4/03 through 9/19/03.

### DECISION

The reviewer agrees with the previous adverse determination regarding all services.

### BASIS FOR THE DECISION

The requestors own criteria for a work hardening program as per the Guidelines of the Council of Physiological Therapeutics and Rehabilitation indicate that a work hardening program is a chronic program (stage 4) and that this program should not be initiated prior to the 12<sup>th</sup> week post-injury. However, this program was begun approximately 8 weeks post injury. Secondly, the requestors own psychologist indicates that the patient does not appear to have any serious psychological sequela, which would warrant the psychological portion that is inherent in this multi-disciplinary program. The reviewer indicates that a less intensive program (psychologically) would have likely achieved the same results; therefore, as per TWCC and Medicare rules, the work hardening program was not medically necessary. The reviewer notes

greater than 700 pages of documentation were reviewed as provided by the requestor and respondent.

Specialty IRO has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. Specialty IRO has made no determinations regarding benefits available under the injured employee's policy.

As an officer of Specialty IRO, Inc, dba Specialty IRO, I certify that there is no known conflict between the reviewer, Specialty IRO and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

Sincerely,